THIS IS THE <u>BEGINNING</u> OF ADMINISTRATIVE FINE CASE # 3487



RECEIVED

TAL ELECTION COMISISSION

TO TABLET

2018 OCT 22 PM 2: 51 SENSITIVE

October 22, 2018

#### **MEMORANDUM**

TO:

The Commission

THROUGH:

Alec Palmer AP by MAH

Staff Director

FROM:

Patricia C. Orrock DC for PCO

Chief Compliance Officer

Debbie Chacona DC Assistant Staff Director Reports Analysis Division

BY:

Kristin D. Roser/Ben Holly B H

Reports Analysis Division Compliance Branch

SUBJECT:

Reason To Believe Recommendation - 2018 12 Day Pre-Primary Report

(New Hampshire) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to timely file the 2018 12 Day Pre-Primary Report for the New Hampshire Primary Election in accordance with 52 U.S.C. § 30104(a). The 12 Day Pre-Primary Report was due on August 30, 2018 and the Primary Election was held on September 11, 2018.

The committees listed on the attached RTB Circulation Report failed to file the election sensitive report by the required due date. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, the committees should be assessed the civil money penalties highlighted on the attached circulation report.

#### Recommendation

- 1. Find reason to believe that the political committees and their treasurers, in their official capacity, listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
- 2. Send the appropriate letters.

10/22/2018 10:39 AM

# **Federal Election Commission** Reason to Believe Circulation Report 2018 PRE-PRIMARY Election Sensitive 08/30/2018 AUTH (NH)

AF#	Committee	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
3487	C00660126	MARK MACKENZIE FOR CONGRESS	MARK S. MACKENZIE	RONALD P. GEOFFROY	\$584,379	0	9/6/2018	7	\$138,031	\$2,522

19092725436

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Reason To Believe Recommendation - 2018	)	
12 Day Pre-Primary Report (New	)	
Hampshire) for the Administrative Fine	)	
Program:	)	
MARK MACKENZIE FOR CONGRESS,	)	AF# 3487
and GEOFFROY, RONALD P as treasurer;	)	

# **CERTIFICATION**

I, Dayna C. Brown, Secretary and Clerk of the Federal Election Commission, do hereby certify that on October 30, 2018 the Commission took the following actions on the Reason To Believe Recommendation - 2018 12 Day Pre-Primary Report (New Hampshire) for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated October 22, 2018, on the following committees:

AF#3487 Decided by a vote of 4-0 to: (1) find reason to believe that MARK MACKENZIE FOR CONGRESS, and GEOFFROY, RONALD P in his official capacity as treasurer, violated 52 U.S.C. 30104(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

October 30, 2018
Date

Dayna C. Brown

Secretary and Clerk of the Commission



October 30, 2018

Ronald P. Geoffroy, in official capacity as Treasurer Mark Mackenzie for Congress 319 West Erie Street Manchester, NH 03102

C00660126 AF#: 3487

Dear Mr. Geoffroy:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period July 1, 2018 through August 22, 2018 shall be filed no later than August 30, 2018. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on September 6, 2018, seven (7) days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On October 30, 2018, the FEC found that there is reason to believe ("RTB") that Mark Mackenzie for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before August 30, 2018. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$2,522. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See http://www.fec.gov/af/af.shtml. 11 CFR § 111.34. Your payment of \$2,522 is due within forty (40) days of the finding, or by December 9, 2018, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$138,031 Number of Days Late: 7

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 1050 First Street, NE, Washington, DC 20002. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or December 9, 2018. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. Id. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

#### 2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Mark Mackenzie for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 et seq. The FEC may take any and all appropriate

action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

#### 3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

#### NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

#### 4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

#### 5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at http://www.fec.gov/af/af.shtml. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

Caroni C. Hunter

Caroline C. Hunter

Chair

## **ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$2,522 for the 2018 Pre-Primary Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission P.O. Box 979058 St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox FEC #979058 1005 Convention Plaza Attn: Government Lockbox, SL-MO-C2GL St. Louis, MO 63101

#### PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

#### PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Mark Mackenzie for Congress

FEC ID#: C00660126

AF#: 3487

PAYMENT DUE DATE: December 9, 2018

PAYMENT AMOUNT DUE: \$2,522



Mark Mackenzie for Congress 319 West Erie St. Manchester, NH 03102

C00660126 AF# 3487

To Whom It May Concern:

The Committee to Elect Mark MacKenzie for Congress is in receipt of you later dated October 30, 2018. The letter imposes a fine of \$2,522 for failure to file a 12 Day Pre-Primary report in a timely manner.

It is our request and via this letter that we are appealing this decision.

The FEC website states that the report must be filed by August 30<sup>th</sup>. On August 27<sup>th</sup> our treasurer, Mr. Geoffroy was out of state and was unavailable. Mr. Geoffroy was in Florida during Hurricane Gordon. Upon realizing at a later date, the report needed to be filed, he contacted the FEC compliance division and spoke with Chris Ritchie. Mr. Ritchie advised Mr. Geoffroy that if he filed the report prior to Sept 7<sup>th</sup> at close of business, all would be well. Please refer back to the committee information to affirm this call with Mr. Ritchie that was made.

We hope this will satisfy the requirements under 11 CFR& 111.35(b)

Ron Geoffroy Sr

รูประชาชาติสาราสารา

Treasurer

www.MarkMacKenzieforCongress.com

Paid for by Mark MacKenzie for Congress • PO Box10243 Bedford, NH 03110

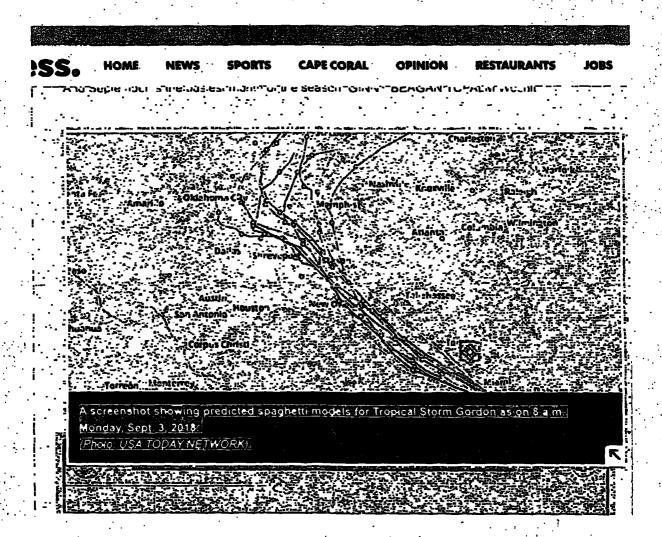
Treasurer Ron Geoffroy

Contributions to Mark MacKenzie for Congress are not tax deductible. Federal law requires Mark MacKenzie for Congress to use best efforts to report name, address, employer, and occupation for all individuals who contribute over \$200 per election cycle. Contributions can be accepted from an individual totalling up to \$2,700 per election and \$5,400 per election cycle. Federal Multi-Candidate PAC's may contribute up to \$5,000 per election and \$10,000 per election cycle. Federal law prohibits contributions to the campaign from corporations, labor organizations, national banks, from any person contributing another person's tunds, from foreign nationals who lack permanent resident status and from federal government contractors.

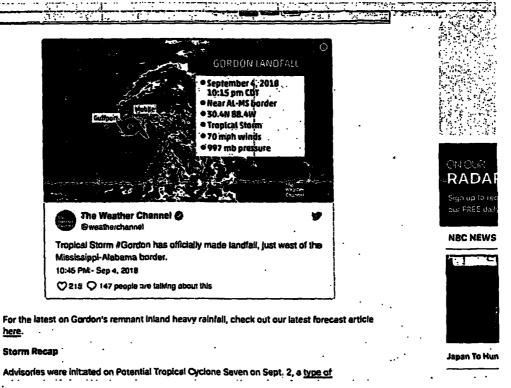
Federal Election Commission Office of Administrative Review 1050 First St. NE Washington, DC. 20002

# To Whom it May Concern;

This is to certify that Ron Geoffroy, Treasurer, Committee to Elect Mark MacKenzie for Congress Campaign, was in Florida in the last week of August and first week of September. Departure Flight Southwest Aug 29<sup>th</sup> Flight 1240 to Orlando. From there traveled by car to the Tampa area to my sisters home.

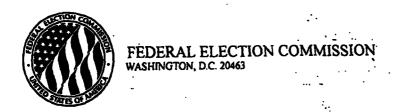


From Tampa we traveled to Pensacola to visit friends and were struck a second time by the same storm. We returned Sept 7<sup>th</sup> Flight 6225 out of Pensacola FL. Hurricane Gordon hit Florida on Sept 4.



While in Pensacola we received information from the committee that the report was required and I then proceeded to call the FEC to discuss the situation. I spoke with Mr. Chris Ritchie and he advised that I file the report by Sept 7<sup>th</sup> close of business and there would be no repercussions.

Ron Geoffroy Treasurer



October 30, 2018

Ronald P. Geoffroy, in official capacity as Treasurer Mark Mackenzie for Congress 319 West Erie Street Manchester, NH 03102

C00660126 AF#: 3487

Dear Mr. Geoffroy:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period July 1, 2018 through August 22, 2018 shall be filed no later than August 30, 2018. 52 U.S.C. § 30104(a). Records at the Federal Election Commission ("FEC") indicate that this report was filed on September 6, 2018, seven (7) days late.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109g(a)(4). On October 30, 2018, the FEC found that there is reason to believe ("RTB") that Mark Mackenzie for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file timely this report on or before August 30, 2018. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$2,522. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See http://www.fec.gov/af/af.shtml. 11 CFR § 111.34. Your payment of \$2,522 is due within forty (40) days of the finding, or by December 9, 2018, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$138,031 Number of Days Late: 7

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review, 1050 First Street, NE, Washington, DC 20002. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or December 9, 2018. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. Id. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

# 2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Mark Mackenzie for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 et seq. The FEC may take any and all appropriate

action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

# NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

#### 5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at http://www.fec.gov/af/af.shtml. If you have questions regarding the payment of the calculated civil money penalty, please contact Ben Holly in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

Caroni C. Hunter

Caroline C. Hunter

Chair

# ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$2,522 for the 2018 Pre-Primary Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission P.O. Box 979058 St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox FEC #979058 1005 Convention Plaza

Attn: Government Lockbox, SL-MO-C2GL

St. Louis, MO 63101

# PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

# PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Mark Mackenzie for Congress

FEC ID#: C00660126

AF#: 3487

PAYMENT DUE DATE: December 9, 2018

PAYMENT AMOUNT DUE: \$2,522

Mackenzie F g k g k k g k g s s PO Box 10243 • Bedford, NH 03110

CES PAR BAILS III SANA

ED CO COS NOW ZOJS PM2 L

FEC MAIL CENTER 2013 NO. 13 ON 3: LL Federal Election Commission Office of Administrative Review 1050 First St. NE Washington, DC. 20002



SOCION-ROCOS

Federal Election Commission  ENVELOPE REPLACEMENT PAGE FOR INCOMING DOCUMENTS  The FEC added this page to the end of this filing to indicate how it was received.					
Hand Delivered	Date of Receipt				
USPS First Class Mail    I   S   8	Date of Receipt				
USPS Registered/Certified	Postmarked (R/C)				
USPS Priority Mail	Postmarked				
USPS Priority Mail Express	Postmarked				
Postmark Illegible					
No Postmark					
Overnight Delivery Service (Specify):  Next Business	Shipping Date  Day Delivery				
Received from House Records & Registration Office	Date of Receipt				
Received from Senate Public Records Office	Date of Receipt				
Received from Electronic Filing Office	Date of Receipt				
Other (Specify):	ceipt or Postmarked				
PREPARER (3/2015)	1/1/4/18 DATE PREPARED				
(3/2013)					



February 5, 2019

# REVIEWING OFFICER RECOMMENDATION OFFICE OF ADMINISTRATIVE REVIEW ("OAR")

AF# 3487 – Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer (C00660126)

#### **Summary of Recommendation**

Make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty.

#### Reason-to-Believe Background

The 2018 New Hampshire Pre-Primary Report was due on August 30, 2018. The Committee filed the report on September 6, 2018, 7 days late. The report is election sensitive and was filed prior to four days before the New Hampshire Primary Election held on September 11, 2018; therefore, the report is considered late. 11 C.F.R. §§ 111.43(d)(1) and (e)(2).

On October 30, 2018, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 New Hampshire Pre-Primary Report and made a preliminary determination that the civil money penalty was \$2,522 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on October 30, 2018 to notify them of the Commission's RTB finding and civil money penalty.

#### Legal Requirements

The Federal Election Campaign Act ("Act") states that the treasurer of a principal campaign committee shall file a pre-election report no later than 12 days before any primary election in which the candidate seeks election. 52 U.S.C. § 30104(a)(2)(A)(i) and 11 C.F.R. § 104.5(a)(2)(i). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

#### Summary of Respondents' Challenge

On November 13, 2018, the Commission received the written response ("challenge") from the Treasurer stating he was out of state and unavailable to file the report. He explains that

beginning August 27, 2018, he was in Florida during Hurricane Gordon. At a later date, he realized the report needed to be filed. He contacted the FEC, and the RAD Compliance Branch Analyst "...advised him that if he filed the report prior to September 7<sup>th</sup> at close of business, all would be well."

The challenge includes additional information which indicates the Treasurer was in Florida from August 29 through September 7, 2018. The Treasurer also provides more details related to his travels through the state, and the path and timing of Hurricane Gordon.

# **Analysis**

On August 6, 2018, the Commission's Information Division sent the 2018 New Hampshire Primary Prior Notice to "markmackenzieforcongress@gmail.com," the email address listed on the Committee's Statement of Organization. The notice specifically highlighted the Committee's requirement to file the 2018 New Hampshire Pre-Primary Report by August 30, 2018. On August 31, 2018, the day following the filing deadline, the Commission's Electronic Filing Office sent a late notification email to "rgeoffroy@comcast.net" and "markmackenzieforcongress@gmail.com" because the report had not yet been filed. On the same day, RAD also sent the non-filer notification to "markmackenzieforcongress@gmail.com."

According to Reports Analysis Division ("RAD") telecoms (written records of telephone conversations), the Treasurer and Candidate separately contacted RAD on September 4, 2018, after receiving the notifications. The Treasurer mentioned he was out of town and would not be able to file the report until September 10, 2018. The RAD Analyst informed him that the late filing may result in publication and/or fines. The RAD Analyst then advised the Treasurer to contact the RAD Compliance Branch for further details. Later that same day, the RAD Compliance Analyst explained that filing extensions are not granted, and the Committee would be published for failing to file the report if it was not received by close of business on September 6, 2018.

On September 6, 2018, after receiving some technical assistance from Commission staff, the Committee successfully electronically filed the report. The RAD Compliance Analyst confirmed receipt of the report and informed the Treasurer that the Committee would be removed from the publication list. The RAD Compliance Analyst did not indicate there would be no penalty for the late filing. Further, RAD's non-filer notification specifically states:

In addition, the failure to timely file this report may result in civil money penalties, an audit or other legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report.

Failure to know filing dates and unavailability of a Treasurer are both included at 11 C.F.R. § 111.35(d) as examples of a circumstance that will not be considered reasonably unforeseen and beyond the respondents' control. While the Treasurer references Hurricane Gordon, there is no explanation or documentation that indicates severe weather prevented the Committee from timely filing the report on August 30, 2018. Therefore, the Reviewing Officer

recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty.

#### **OAR Recommendations**

- 1. Adopt the Reviewing Officer recommendation for AF# 3487 involving Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer, in making the final determination;
- 2. Make a final determination in AF# 3487 that Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty; and
- 3. Send the appropriate letter.

#### Attachments

Attachment 1 -

Attachment 2 -

Attachment 3 -

Attachment 4 - Declaration from RAD

Attachment 5 - Declaration from OAR

#### DECLARATION OF KRISTIN D. ROSER

- I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election
  Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the
  initial processing of the Administrative Fine Program. I make this declaration based on my personal
  knowledge and, if called upon as a witness, could and would testify competently to the following
  matters.
- It is the practice of the Reports Analysis Division to document all calls to or from committees
  regarding a letter they receive or any questions relating to the FECFile software or administrative
  fine regulations, including due dates of reports and filing requirements.
- 3. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Mark MacKenzie for Congress:
  - A) Termination Denial Letter, dated November 19, 2018, referencing the Termination Report covering October 16, 2018 through November 5, 2018 (sent via regular mail to the address of record);
  - B) Non-Filer Letter, dated August 31, 2018, referencing the 2018 12 Day Pre-Primary Report (sent via electronic mail to: markmackenzieforcongress@gmail.com);
  - C) Reason-to-Believe Letter, dated October 30, 2018, referencing the 2018 12 Day Pre-Primary Report (sent via overnight mail to the address of record).
- I hereby certify that I have searched the Commission's public records and find that Mark MacKenzie for Congress filed the 2018 12 Day Pre-Primary Report with the Commission on September 6, 2018.
- 5. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 19th day of November, 2018.

Kristin Roser

Kristin D. Roser Chief, Compliance Branch Reports Analysis Division Federal Election Commission



November 19, 2018

Ronald P. Geoffroy, Treasurer Mark MacKenzie for Congress 319 West Erie Street Manchester, NH 03102

Dear Treasurer:

On November 5, 2018, you filed a report requesting that the Federal Election Commission permit Mark MacKenzie for Congress (C00660126) to terminate pursuant to 52 U.S.C. § 30103(d) and 11 CFR § 102.3 of the Commission's Regulations. Because of an administrative fines matter involving your committee, your termination request has been denied.

Your committee must continue to file all required reports with the Commission. You will be notified when your request to terminate has been granted and your committee is no longer required to file reports with the Commission. If you have any questions regarding this matter, please do not hesitate to contact Aimee Wechsler on our toll free number at (800) 424-9530. Her local number is (202) 694-1194.

Sincerely,

Debbie Chacona

Debbie Chacona
Assistant Staff Director
Reports Analysis Division



RQ-7

August 31, 2018

GEOFFROY, RONALD P, TREASURER MARK MACKENZIE FOR CONGRESS 319 WEST ERIE STREET MANCHESTER, NH 03102

**IDENTIFICATION NUMBER: C00660126** 

REFERENCE: PRE-PRIMARY REPORT (07/01/2018 - 08/22/2018)

#### Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and disbursements as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a)

You will be allowed until 5:00 pm est on the fourth (4th) business day from the date of this notice to file this report to avoid publication. If you have already filed the report by express, certified or registered mail or are planning to file it within four (4) business days from the date of this notice, please notify us immediately of the certified, registered or express tracking number and the date that the report was sent.

The report must be filed with the Federal Election Commission, 1050 First Street, NE, Washington, DC 20002 for House candidates, or the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 (if sent via overnight delivery service) or Senate Office of Public Records, P.O. Box 77578, Washington, DC 20013-7578 (if sent via USPS) for Senate Candidates. Please note that electronic filers must submit their reports electronically, as per 11 CFR §104.18. A copy of the report must also be filed with the Secretary of State or equivalent State officer unless the state is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at www.fec.gov.

In addition, the failure to timely file this report may result in civil money penalties, an audit or other legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report.

# MARK MACKENZIE FOR CONGRESS

Page 2 of 2

If you have any questions regarding this matter, please contact Christopher Ritchie in the Reports Analysis Division on our toll-free number (800)424-9530. The analyst's direct number is (202)694-1146.

Sincerely,

Debbie Chacona

Deborah Chacona Assistant Staff Director Reports Analysis Division

250

#### **DECLARATION OF RHIANNON MAGRUDER**

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A principal campaign committee shall file a pre-election report no later than 12 days before any primary election in which the candidate seeks election. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on August 30, 2018 for the 2018 New Hampshire Pre-Primary Report to be timely filed.
- 3) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
  - a) Cover page, Summary Page, and Detailed Summary Pages of the 2018 Pre-Primary Report filed by Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer. The report was electronically filed on September 6, 2018.
- 4) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 5<sup>th</sup> day of February, 2019.

Rhiannon Magruder
Reviewing Officer
Office of Administrative Review
Federal Election Commission

PAGE 1/37

**FEC** 

# REPORT OF RECEIPTS

FORM 3		orized Com			(	Office Use Only
NAME OF     COMMITTEE (in full)	TYPE OR PRINT W		mple: If typing, r the lines.		12FE4M5	in the second
Mark MacKenzie for Co	ongress					
				1 1 1		
<u></u>	PO Box 10243				1 1 1 1 1	
ADDRESS (number and street)	1					
Check if different than previously	Bedford	<del></del>		. J	JNH J J C	)3110
reported. (ACC)		CITY ▲	<u></u>	لل s	LLLI L TATE ▲	ZIP CODE 🏝
2. FEC IDENTIFICATION NU	, •				<del></del>	$\neg$
C C00860126	(	3. IS THIS REPORT	NEW (N)	OR	AMENDE (A)	STATE V DISTRICT
<ol> <li>TYPE OF REPORT (Che</li> <li>(a) Quarterly Reports:</li> </ol>	oose One) (b)	12-Day PRE	Election Report	for the:		
\$ "\	lonest (O1)	×	Primary (12P)	Y	General (12	Runoff (12R)
		, present	Convention (12	(C)	Special (12	S)
			M09 M /	110 /	Y Y Y Y	in the
October 15 Quarter	ly Report (Q3)	Election on		11 ? a. 9 9	2018	State of
January 31 Year-En	d Report (YE) (c)	<del>-</del>	<b>r</b> -Election Repo		ų	.~~
		7	General (30G)	l.,	Runoff (30F	Special (30S)
Termination Report	(TER)	Election on	M M /	D, D /	Y Y Y Y	in the State of
certify that I have examined the	Geoffroy, Ron, , N		through	08		2018 complete.
Type or Print Name of Treasurer Geo <u>j</u> Signature of Treasurer	Troy, Ron, . Mr, Sr		/Electronically Fi	ledi D	ate 09	/ 06 / Y Y Y Y Y Y
NOTE: Submission of false, errone	ous or incomplete in	oformation may	<u> </u>	<u>:</u> -		
Office Office			Lucion and person			
Use Only					.	FEC FORM 3 (Revised 05/2016)

# **SUMMARY PAGE**

		FEC Form 3 (Revised 05/2016)	or neceipts and Disbursements	PAGE 2737
		or Type Committee Name k MacKenzie for Congress	·	
R	eport	Covering the Period: From:	м / р р / Y y y y y д д д д д д д д д д д д д д д	o: MO8M / P22P / Y 2018 Y
			COLUMN A This Period	COLUMN B Election Cycle-to-Date
6.	Net	Contributions (other than loans)		<u> </u>
	(a)	Total Contributions (other than loans) (from Line 11(e))	17721.02	94699.38
	(b)	Total Contribution Refunds (from Line 20(d))	0.00	. 0.00
	(c)	Net Contributions (other than loans) (subtract Line 6(b) from Line 6(a))	17721.02	94699.38
7.	Net	Operating Expenditures		•
	(a)	Total Operating Expenditures (from Line 17)	19965.41	89187.97
	(b)	Total Offsets to Operating Expenditures (from Line 14)	0.00	131.67
	(c)	Net Operating Expenditures (subtract Line 7(b) from Line 7(a))	19965.41	89056.30
8.		sh on Hand at Close of porting Period (from Line 27)	5283.47	•
9.	the	ots and Obligations Owed TO  Committee (Itemize all onedule C and/or Schedule D)	0.00	
10.	the	ots and Obligations Owed BY Committee (Itemize all on needule C and/or Schedule D)	-345.20 -345.20	

# For further information contact:

Federal Election Commission 999 E Street, NW Washington, DC 20463

> Toll Free 800-424-9530 Local 202-694-1100

# **DETAILED SUMMARY PAGE**

of Receipts

**PAGE 3 / 37** 

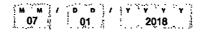
FEC	Form	3	(Revised	05/2010

Write or Type Committee Name

Mark MacKenzie for Congress

Report Covering the Period:

From:



To:

M M / D O / Y Y Y Y O 08 22 2018

	i. RECEIPTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
11. (	CONTRIBUTIONS (other than loans) FROM:		
(	a) Individuals/Persons Other Than		
	Political Committees	American de la partir de la Francisco del contra de la francisco de la contra de la francisco de la contra della contra de la contra della contra de	granding programme and control of the
	(i) Itemized (use Schedule A)	16432.00	34118.00
	, , , , , , , , , , , , , , , , , , ,	1289.02	11549.02
	(ii) Unitemized	Same Same Same Brown Brown Same Same Brown Same Same Same Same Same Same Same Same	hand the second second transfer and the second transfer and the second second transfer and the second transfer
	(iii) TOTAL of contributions from individuals	17721.02	45667.02
		the control of the first term of the control of the	t en de de la completa del la completa de la completa del la completa de la completa del la completa de la completa de la completa del la c
	b) Political Party Committees	0.00	0.00
,	c) Other Political Committees (such as PACs)	0.00	48732.36
		And the state of t	hand the fact of the state of t
	(d) The Candidate	0.00 f	
•	(other than loans)	Appropriate consistence of the constraint of the	protestive regards the Company of th
	(add Lines 11(a)(iii), (b), (c), and (d))	17721.02	94699.38
12.	TRANSFERS FROM OTHER	The standard and the standard of the standard and the standard of the standard	
	AUTHORIZED COMMITTEES	0.00	0.00
13. I	LOANS:		
(	(a) Made or Guaranteed by the	Indiana production in the continuous continu	Exercise the contraction of the
	Candidate	0.00 §	200000.00
-	(b) All Other Loans	0.00	0.00
	c) TOTAL LOANS	The man the particular of the man the special control of the contr	The control of the co
`	(add Lines 13(a) and (b))	0.00	200000.00
14. (	OFFSETS TO OPERATING		
	EXPENDITURES	Bendandanier is a forder kindanier in de	forman plantal maniformation of reducines
(	Refunds, Rebates, etc.)	0.00	131.67
15. (	OTHER RECEIPTS	Andread transfer of the state o	The state of the s
(	Dividends, Interest, etc.)	0.00	0.00
16.	TOTAL RECEIPTS (add Lines 11(e), 12, 13(c), 14, and 15)	17721.02	Ling indigities having a second

# **DETAILED SUMMARY PAGE**

FEC Form 3 (Revised 05/2016)

of Disbursements

PAGE 4 / 37

	II. DISBURSEMENTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
	OPERATING EXPENDITURES TRANSFERS TO OTHER	19965.41	89187.97
	AUTHORIZED COMMITTEES	0.00	0.00
19.	LOAN REPAYMENTS:  (a) Of Loans Made or Guaranteed by the Candidate	100345.20 0.00 100345.20	200345.20 0.00 200345.20
20.	REFUNDS OF CONTRIBUTIONS TO:  (a) Individuals/Persons Other  Than Political Committees	0.00	0.00
	(b) Political Party Committees(c) Other Political Committees. (such as PACs)	0.00	0.00
	(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b), and (c))	0.00	0.00
21.	OTHER DISBURSEMENTS	0.00	0.00
22.	TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d), and 21)	120310.61	289533.17
	III. CASH SL	JMMARY	
<del>.</del> 23.	CASH ON HAND AT BEGINNING OF REPO	RTING PERIOD	107873.06
24	TOTAL RECEIPTS THIS PERIOD (from Line	16, page 3)	17721.02
25.	SUBTOTAL (add Line 23 and Line 24)		125594.08
26.	TOTAL DISBURSEMENTS THIS PERIOD (fro	m Line 22)	120310.61
27.	CASH ON HAND AT CLOSE OF REPORTING (subtract Line 26 from Line 25)		5283.47



February 6, 2019

Ronald P. Geoffroy, in official capacity as Treasurer Mark Mackenzie for Congress 319 West Erie St.

Manchester, NH 03102

C00660126 AF#: 3487

Dear Mr. Geoffroy:

On October 30, 2018, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Mark Mackenzie for Congress and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 Pre-Primary Report. The Commission also made a preliminary determination that the civil money penalty was \$2,522 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing your written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination and assess a civil money penalty. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 1050 First Street, NE, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1158 if you have any questions.

Sincerely,

Rhiannon Magruder
Rhiannon Magruder
Reviewing Officer
Office of Administrative Review



2019 FEB 19 AM 11: 11



# SENSITIVE

February 19, 2019

#### **MEMORANDUM**

To:

The Commission

Through:

Alec Palmer

Staff Director

From:

Patricia C. Orrock *PCO*Chief Compliance Officer

Rhiannon Magruder *PM* 

Reviewing Officer

Office of Administrative Review

Subject:

Final Determination Recommendation in AF# 3487 - Mark Mackenzie for

Congress and Ronald P. Geoffroy, in his official capacity as Treasurer

(C00660126)

On October 30, 2018, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) for failing to timely file the 2018 New Hampshire Pre-Primary Report and made a preliminary determination that the civil money penalty was \$2,522 based on the schedule of penalties at 11 C.F.R. § 111.43.

On November 13, 2018, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated February 5, 2019 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty.

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f). On February 11, 2019, the Treasurer submitted a response to the ROR stating that the Committee has filed a termination report and has no remaining funds to pay a civil money penalty. However, a committee's intent to terminate and amount of cash on hand are not considered. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty.

#### **OAR Recommendations**

- 1. Adopt the Reviewing Officer recommendation for AF# 3487 involving Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer, in making the final determination;
- 2. Make a final determination in AF# 3487 that Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty; and
- 3. Send the appropriate letter.

#### **Attachments**

Attachment 1 - Response to ROR

February 11, 2019

Federal Election Commission Washington, DC. 20463

Ronald P. Geoffroy, in official capacity as Treasurer Mark Mackenzie for Congress 319 West Erie St. Manchester, NH 03102

Ms. Magruder;

We are in receipt of your letter dated February 6, 2019 stating the Commission Reviewing Officer determination was to assess a civil penalty for the delay in filing the October 30, 2018 filing.

At this time the Mark MacKenzie for Congress Committee has been dissolved based on the final termination filing on November 6, 2018. The Committee does not have any funds to pay for any penalty assessed by the Commission.

Please advise of any further action in this matter.

Ron Geoffroy Sr.
Former Treasurer
Mark MacKenzie for Congress Committee

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	AF 3487
Final Determination Recommendation:	)	
Mark Mackenzie for Congress and	• )	
Ronald P. Geoffroy, in his official	)	
capacity as Treasurer (C00660126)	)	

# **CERTIFICATION**

I, Dayna C. Brown, Secretary and Clerk of the Federal Election Commission, do hereby certify that on March 01, 2019, the Commission decided by a vote of 4-0 to take the following actions in AF 3487:

- Adopt the Reviewing Officer recommendation for AF# 3487 involving Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official capacity as Treasurer, in making the final determination.
- Make a final determination in AF# 3487 that Mark Mackenzie for Congress and Ronald P. Geoffroy, in his official as Treasurer, violated 52 U.S.C. § 30104(a) and assess a \$2,522 civil money penalty.
- 3. Send the appropriate letter.

Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

Dayna C. Brown

Secretary and Clerk of the Commission

March 6, 2019

Ronald P. Geoffroy, in official capacity as Treasurer Mark Mackenzie for Congress 319 West Erie St. Manchester, NH 03102

C00660126 AF#: 3487

Dear Mr. Geoffroy:

On October 30, 2018, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Mark Mackenzie for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) for failing to file the 2018 Pre-Primary Report. By letter dated October 30, 2018, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$2,522 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On November 13, 2018, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Mark Mackenzie for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assess a civil money penalty in the amount of \$2,522 in accordance with 11 C.F.R. § 111.43. The Reviewing Officer Recommendation was sent to you on February 6, 2019.

On March 1, 2019, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Mark Mackenzie for Congress and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a), and assessed a civil money penalty in the amount of \$2,522. A copy of the Final Determination Recommendation is attached.

At this juncture, the following courses of action are available to you:

# 1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the U.S. District Court for the district in which the committee or you reside, or transact business, requesting that the final determination be modified or set aside. See 52 U.S.C. § 30109(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during

the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 52 U.S.C. § 30109. 11 CFR § 111.38.

# 2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact you to request payment. Treasury currently charges a fee of 30% of the civil money penalty amount for its collection services. If the age of the debt is greater than or equal to two years old, Treasury will charge a fee of 32% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments, which the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

#### 3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the civil money penalty, follow the payment instructions on page 4 of this letter. You should make payment within thirty (30) days of receipt of this letter.

#### NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

# 4. Partial Payments

If you make a payment in an amount less than the civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assessed upon making a final determination.

#### 5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assessed upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

Ellen L. Weintraul

Ellen L. Weintraub

Chair

#### **ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$2,522 for the 2018 Pre-Primary Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit <a href="https://www.fec.gov/af/pay.shtml">www.fec.gov/af/pay.shtml</a> to be directed to Pay.gov's Administrative Fine Program Payment form.

This penalty may also be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission PO Box 979058 St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please send to:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

#### PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

#### PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Mark Mackenzie for Congress

FEC ID#: C00660126

AF#: 3487

PAYMENT AMOUNT DUE: \$2,522

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 3487